

At the same time, as detailed in Section II.A.3 below, Viacom also supports a set of restrictions designed to ensure that ATV does not abandon its foundation as a free, over-the-air service transmitted to the general public within a station's licensed service area.<sup>26</sup> By guaranteeing that free video transmissions remain at the heart of ATV service, these rules will make clear that advanced television is not a "new service" but simply the next phase in the technological evolution of terrestrial broadcasting -- and thus would eliminate the basis for any claims that comparative licensing hearings are statutorily mandated.<sup>27</sup>

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<sup>26</sup> See infra text at pages 22-27. Limiting initial eligibility to existing licensees is warranted under the Communications Act because -- as the Commission and many commenters recognize -- ATV is an upgrade of the existing television broadcast service designed to "deliver a signal of superior quality," not a new communications service. NPRM, 10 FCC Rcd. at 10,545; see, e.g., MSTV Comments at 16. Neither the loan of an additional channel for a temporary transition period nor the potential for services beyond HDTV should transform ATV service into a service that the public would not recognize as television broadcasting. For that reason, Viacom agrees with the consensus view that licensees should be required to fulfill their current public interest obligations on both their NTSC channel and on the ATV services that they broadcast free to the public. See, e.g., MSTV Comments at 25-26; Comments of General Instrument Corporation, MM Docket No. 87-268, at 10 (filed Nov. 20, 1995) ("General Instrument Comments"); INTV Comments at 15-18 (suggesting that public interest requirements be based on an evaluation across all free, broadcast services provided on a licensee's ATV spectrum).

<sup>27</sup> Current FCC rules already permit broadcasters certain "flexible uses" of their licensed spectrum to the extent that analog broadcast technology can accommodate such uses. See 47 C.F.R. § 73.646, 73.665, 73.667 (1994). In contrast to the suggestions made in some initial comments in this proceeding, the authority to make flexible use of the spectrum does not undermine the fundamental character of a "broadcast" license. See, e.g., General Instrument Comments at 8-9.

**a. The Record Warrants Assigning An ATV Transition Channel To Current Broadcast Permittees**

While reserving ATV channels for existing broadcasters, the FCC should confirm that the initial eligibility limitations also encompass holders of broadcast construction permits. In the view of Viacom and other commenters, many of the same policy justifications support such a clarification.<sup>28</sup> Inclusion of qualified permittees will reasonably expand diversity and competition in local broadcasting and thereby foster the widest possible ATV implementation within the shortest possible time. The agency's long-standing ATV allotment policy already provides for pairing as-yet unbuilt NTSC stations with ATV transition channels. Providing permittees with a transition channel would fulfill their legitimate expectations concerning their place in broadcasting's future. Without this expectation, current permittees would be ill-advised to build and operate new stations, and the existing pool of new permittees who would bring new stations and additional services to the public would perish. These added local broadcasters are precisely the ones who can be expected to provide critical outlets for emerging broadcast networks to expand their roll-out of nationwide, quality programming.

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<sup>28</sup> See, e.g., APTS/PBS Comments at 13-14.

**b. Nothing In The Record Justifies Abandonment  
Of The Commission's Longstanding ATV  
Implementation Framework For The Sake Of  
Generating Immediate Spectrum Auction  
Revenue**

The question of spectrum auctions in this context remains a matter for Congress to decide. Absent a Congressional directive, it would be inappropriate for the Commission to abandon its responsibility for both fostering prompt implementation of ATV and protecting the integrity of the nation's system of universally available, over-the-air television. Furthermore, the record now before the agency provides clear economic justification for deferring any spectrum auction until after "old" NTSC channels have been recovered and ATV channels "repacked" into a contiguous broadcast band. Other commenters, including those with expertise in the services likely to be provided via this newly available spectrum, credibly submit that vacant spectrum would be deemed more valuable if it were available in large, contiguous, nationwide blocks.<sup>29</sup> Therefore, if the FCC is to raise revenue through auctions, all policy concerns -- including the interest of the millions of American consumers solely

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<sup>29</sup> HDTV Grand Alliance Comments at 11-12; General Instrument Comments at 15; Thomson Comments at 7; Comments of the Personal Communications Industry Association, MM Docket No. 87-268, at 10 (filed Nov. 20, 1995) ("PCIA Comments"); Comments of UTC, The Telecommunications Association, MM Docket No. 87-268, at 5 (filed Nov. 20, 1995) ("UTC Comments"); Comments of the Information Technology Industry Council, MM Docket 87-268, at 5-7 (filed Nov. 21, 1995) ("ITI Comments") (noting that contiguous spectrum is important for nomadic applications).

reliant on broadcasting for their television service -- justify waiting until the spectrum can demand the highest bids from auction participants through repacking.

Commenters raise serious concerns about the adverse effect that precipitous auctions might have on ATV development.<sup>30</sup> It is beyond argument that establishing an auction of the ATV transition channels would incur considerable delay -- not the least because, as the Commission itself has tentatively concluded, absent Congressional action the agency has no authority to auction spectrum intended for ATV broadcasting.<sup>31</sup> And as many commenters have explained, such auctions are likely to leave all but the most well-funded broadcasters without an ATV license, thus depriving consumers of the experience and viewpoints that smaller broadcasters would otherwise bring to bear on the service both during and after the potentially difficult transition period.<sup>32</sup>

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<sup>30</sup> See Comments of AFLAC Broadcast Division, MM Docket No. 87-268, at 1 (filed Nov. 20, 1995) ("AFLAC Broadcast Comments"); Comments of Busse Broadcasting Corporation, MM Docket No. 87-268, at 2-4 (filed Nov. 20, 1995) ("Busse Broadcasting Comments"); Pacific FM Comments at 2-4.

<sup>31</sup> See NPRM, 10 Rcd. at 10,545.

<sup>32</sup> See, e.g., Busse Broadcasting Comments at 3; Comments of National Consumers League, MM Docket No. 87-268, at 6 (filed Nov. 20, 1995) ("Consumers League Comments"); Pacific FM Comments at 3; Comments of Thomas C. Smith, MM Docket No. 87-268, at 14-15 (filed Nov. 21, 1995) ("Thomas C. Smith Comments"); EIA & ATV Committee Comments at 20.

**3. Nothing In The Record Refutes The Fact That A Full 6 MHz Channel Allocation, Subject To Reasonable Conditions, Is Necessary For Broadcasters To Deliver All ATV Services Made Possible By The Grand Alliance/ATSC Standard**

Commenters have made clear that broadcasters simply could not implement the Grand Alliance/ATSC system unless they are provided with a full 6 MHz ATV channel for the transition period and are further assured of retaining one 6 MHz channel after the transition is completed.<sup>33</sup> No other technological system exists -- nor could one be readily developed without losing critical years -- that would allow the provision of HDTV using less spectrum. Thus, any smaller allotment would deny HDTV-quality programming to all those who depend solely on over-the-air transmissions for their television service -- and, indeed, would forestall the emergence of HDTV altogether.

Viacom believes that the Commission can strike an appropriate regulatory balance that will justify the full 6 MHz channelization scheme and also preserve the fundamental nature of the broadcast service. Establishing the reasonable framework outlined below would protect the public's interest in maintaining the nation's tradition of free broadcast service throughout the transition, while ensuring that new developments -- such as the high-quality HDTV signal -- receive a fair market test so that consumer judgments, not government acts, ultimately drive the evolution of advanced television.

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<sup>33</sup> See, e.g., MSTV Comments at 10-11; CBS Comments at 3; HDTV Grand Alliance Comments at 2.

**a. The Record Provides Support for Requiring An ATV Licensee To Provide At Least One Free Digital Broadcast Program Service To The Viewing Public At All Times The Licensee Operates Its ATV Channel**

Comments in the record make clear that provision of the full 6 MHz ATV channel is important to provide the economic underpinnings for broadcasters' investment in digital broadcast technology. While the Grand Alliance technology's potential for flexible use has attracted considerable attention, Viacom expects that HDTV and SDTV broadcasts -- and not data transmissions -- will constitute the central use of an ATV licensee's signal capacity.<sup>34</sup> In any event, to ensure the public interest remains well served by ATV licensees, Viacom would endorse a Commission requirement that ATV licensees provide at least one free digital broadcast program service during all hours the ATV channel is in use.<sup>35</sup> Such a rule would guarantee that free broadcast service similar to what consumers now enjoy remains the centerpiece of ATV broadcasting.

**b. The Record Provides Support For Establishing A Minimum HDTV Transmission Requirement**

The obvious link between the full 6 MHz channelization scheme and HDTV prompts Viacom to join the many commenters who already have supported a

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<sup>34</sup> See supra text at pages 17-18 (discussing limitation of initial eligibility to broadcasters).

<sup>35</sup> Accord, e.g., Busse Broadcasting Comments at 2; Pacific FM Comments at 2.

requirement that broadcasters air a reasonable minimum amount of HDTV.<sup>36</sup> The widely supported proposal for a minimum requirement of an average of five hours of HDTV programming per week would not be unduly onerous, particularly if the average were calculated on an annual basis as several commenters have suggested.<sup>37</sup> Certainly American viewers cannot provide a meaningful sense of the demand for HDTV if they are not provided at least a minimal chance to see it.

HDTV service was the predicate upon which ATV has been developed and, to the extent that American consumers have come to anticipate the benefits of advanced television technology, they surely expect to see substantial upgrades in the range of picture quality their future TV sets will provide. Several commenters have stated,

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<sup>36</sup> See, e.g., CBS Comments at 6-7; Comments of Capital Cities/ABC, Inc., MM Docket No. 87-268, at 5 (filed Nov. 20, 1995) (Capital Cities/ABC Comments"); Comments of National Broadcasting Company, Inc., MM Docket No. 87-268, at 7-8 (filed Nov. 20, 1995) ("NBC Comments"); MSTV Comments at 5 ("[M]inimum HDTV transmission requirements should apply if the Commission decides that such requirements are necessary to secure for HDTV that fair chance in the marketplace"); EIA & ATV Committee Comments at 5-7; HDTV Grand Alliance Comments at 4-5; Comments of Motorola, Inc., MM Docket No. 87-268, at 11 (filed Nov. 20, 1995) ("Motorola Comments"). Those commenters who opposed a minimum requirement usually supported leaving that question to the marketplace. See, e.g., NAB Comments at 1-4; APTS/PBS Comments at 18-19. Viacom believes, along with other commenters such as CBS and NBC, that the minimum suggested by the majority of broadcast commenters would strike an appropriate balance that will promote HDTV while essentially allowing consumer demand to determine how much HDTV programming is ultimately broadcast.

<sup>37</sup> See, e.g., Capital Cities/ABC Comments at 7; NBC Comments at 8 (suggesting an annual average).

however, that absent a minimum requirement, HDTV is unlikely to receive a fair test in the marketplace.<sup>38</sup>

Viacom agrees that HDTV has the potential to be widely popular -- so long as sufficient numbers of the viewing public have access to it. From its broad standpoint as not only a broadcaster, but also a programmer and both TV and film producer, Viacom looks forward to exploring HDTV's promise for attracting audiences through its superior signal quality. The prospect offers Viacom an immediate opportunity to draw upon its extensive film library to provide consumers with movie-quality pictures in their homes, while also inspiring the creation of new HDTV programming. Ensuring early access to HDTV programming for the most motivated "early adopters" of ATV among the viewing public, as the Commission should well understand, is the seed from which natural, market-based growth of HDTV can spring.

**c. The Record Provides Support For An Initial  
Simulcasting Requirement To Facilitate  
The Transition To ATV**

Provision of the full 6 MHZ channel for ATV services should not open the door to immediate abandonment of NTSC broadcasting and the audience it serves. For that reason, Viacom joins those broadcasters and others who support simulcasting of a

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<sup>38</sup> See, e.g., Capital Cities/ABC Comments at 6-7; NBC Comments at 7; CBS Comments at 7.



broadcaster's NTSC programming on one of the licensee's ATV signals.<sup>39</sup> Viacom believes that the practical application of this approach -- when applied in conjunction with the Commission's proposed definition of simulcasting<sup>40</sup> -- should serve several public interest goals. As explained below, simulcast of NTSC programming on one ATV channel need not prevent licensees from airing several hours of special HDTV programming each day to entice greater numbers of consumers to quickly acquire new digital receivers.

Surely there can be little disputing the public interest concerns underlying the FCC's original motivation for proposing a simulcast obligation. Consumers who cannot or will not become "early adopters" of the new technology should not be "prematurely deprived of the benefits of their NTSC video equipment" by the advent of ATV.<sup>41</sup> Those commenters who oppose a simulcast requirement -- notably NAB and INTV -- do so in large measure because they believe that simulcasting will eliminate consumers' incentives to acquire ATV technology: "The availability of compelling programs that are not available via the traditional NTSC service well may tip the scales

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<sup>39</sup> See, e.g., Capital Cities/ABC Comments at 10; CBS Comments at 8-9.

<sup>40</sup> NPRM, 10 FCC Rcd. at 10,546 n.42 (defining simulcasting as the broadcast of program material on both the NTSC and ATV channel within the same 24-hour period).

<sup>41</sup> NPRM, 10 FCC Rcd. at 10,547. Requiring the simulcast of the basic NTSC programming on one ATV signal will serve this end by "ensuring that the ATV and NTSC broadcast services do not evolve into separately programmed entities." CBS Comments at 9 (noting that separate evolution could stymie a quick termination of the transition and perhaps even delay return of the NTSC channel).

towards purchasing that new set."<sup>42</sup> Viacom agrees that special HDTV programming and other innovative ATV services will be integral to attracting consumer interest in, and quick purchase of, digital receivers. Yet the flexibility of both the Grand Alliance/ATSC standard and the Commission's definition of simulcasting can solve the dilemma.

Because the FCC has not proposed requiring absolute same-time simulcasting -- but instead simply proposes simulcast transmissions in both formats within a 24-hour period -- a broadcaster could provide several hours of HDTV programming on its ATV channel each day and still meet the simulcast obligation by spreading its NTSC programming over two or more SDTV channels during dayparts other than those devoted to HDTV. The FCC thus ought to adopt its simulcasting proposal but allow broadcasters the discretion to determine exactly when and how the NTSC programming will be broadcast over the ATV spectrum.<sup>43</sup>

**4. Nothing In The Record Warrants Any Limitation  
That Would Deny Consumers The Full Benefits  
of ATV Flexibility**

Especially in light of the FCC's sound policy goal of ensuring that ATV delivers on its promise as the latest step forward in broadcasting, Viacom concurs with

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<sup>42</sup> NAB Comments at 4 (emphasis in the original); see also INTV Comments at 12.

<sup>43</sup> The natural evolution of ATV service may warrant a simulcast requirement that varies across different phases of ATV implementation.

those commenters who maintain that ATV licensees should be authorized to explore the full potential of the robust Grand Alliance/ATSC standard. The public should be allowed to benefit from the variety of services made possible by the new technology -- including subscription and data services -- so long as those uses do not adversely affect the broadcaster's free video service.<sup>44</sup>

FCC authorization of flexible use of ATV channels would be appropriately constrained by reasonable requirements, as discussed above, for minimum HDTV transmissions, free ATV video transmissions through all operating hours, and transition simulcasting. Together, these rules would serve to encourage experimentation with the new technology's potential while also ensuring that the viewing public's demand for traditional television service is well served.<sup>45</sup>

The record to date, however, suggests that -- with the possible exception of multiplexed SDTV -- it is too early now to predict what kind of additional services ATV licensees actually will offer.<sup>46</sup> Given that the agency can be expected to closely

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<sup>44</sup> See, e.g., General Instrument Comments at 9-10; HDTV Grand Alliance Comments at 2-3; Comments of Zenith Electronics Corporation, MM Docket No. 87-268, at 3 (filed Nov. 20, 1995) ("Zenith Comments"). ("[W]e urge the Commission, consistent with its goal to preserve and promote over-the-air TV, to permit flexible use of the [additional] channel, in addition to HDTV")

<sup>45</sup> Accord INTV Comments at 13; Motorola Comments at 11-12; Thomson Comments at 3-5; ITI Comments at 5; EIA & ATV Committee Comments at 7-8.

<sup>46</sup> See, e.g., MSTV Comments at 22; INTV Comments at 14; ITI Comments at 7. For its part, Viacom anticipates making flexible use of ATV capacity to disseminate a wide variety of program offerings and newly developed content including, for instance, educational material created by Simon & Schuster and children's programming produced by Nickelodeon.

monitor the development and deployment of various ATV services during the transition period, there is no pressing need for the Commission's staff to expend resources now to attempt to craft regulations in the abstract. Accordingly, the FCC should defer regulation of such services at least until concrete service trends emerge at some point later in the transition.

**5. The Record Demonstrates A Compelling Need To  
Structure Transition Deadlines In Accordance  
With Consumer Acceptance Of ATV Technology**

Initial comments have shown that the Commission can best serve consumers' interests by structuring a transition period that encourages broadcasters to quickly adopt ATV, but not to quickly abandon NTSC service before consumer acceptance of ATV warrants.<sup>47</sup> A rigid, artificial transition deadline is unlikely to accomplish this objective. Broadcasters can still be held to reasonable construction deadlines and

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<sup>47</sup> See, e.g., MSTV Comments at 27-28; Busse Broadcasting Comments at 6; EIA & ATV Comments at 22; Pacific FM Comments at 4-5; Comments of Cohen, Dippell and Everist, P.C., MM Docket No. 87-268, at 5 (filed Nov. 20, 1995) ("Cohen, Dippell and Everist Comments"); HDTV Grand Alliance Comments at 10; Thomson Comments at 6-7; Golden Orange Broadcasting Comments at 1-2.

service obligations,<sup>48</sup> and clear economic incentives will spur licensees to rapidly move to ATV-only service so as to avoid the additional costs of NTSC transmissions.

While Viacom supports the FCC's push to inaugurate ATV service as rapidly as possible, the company also joins other commenters in urging the agency to reconsider the current date-certain approach for terminating the transition period. Viacom believes that the viewing public would be better served by a final transition mechanism that takes into account the uncertainty surrounding ATV technical and financial issues -- from both the broadcaster's and the consumer's standpoint. Accordingly, Viacom urges the Commission to end the transition period only after the agency has determined that free broadcasting has been firmly established in the digital environment.<sup>49</sup>

Viacom also agrees that any deadline for the transition should incorporate a procedure by which the deadline may be tolled on a market-by-market basis to avoid penalizing viewers in areas with low ATV penetration.<sup>50</sup> The FCC should expect that

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<sup>48</sup> Viacom therefore concurs with commenters supporting the Commission's proposed ATV application and construction timetable, which generally provides broadcasters with sufficient time to indicate their desire to transition to ATV and build appropriate facilities. See, e.g., MSTV Comments at 12-13; HDTV Grand Alliance Comments at 13-15. Furthermore, Viacom supports granting small-market stations flexibility in meeting the construction and application deadlines. See, e.g., MSTV Comments at 12-13; NAB Comments at 6-8 (proposing a staggered implementation schedule on a market-by-market basis).

<sup>49</sup> MSTV Comments at 28. Accord Comments of Pulitzer Broadcasting Company, MM Docket No. 87-268, at 4-5 (filed Nov. 20, 1995) ("Pulitzer Broadcasting Comments"). Viacom joins the broadcasters led by MSTV, who suggest that any such benchmark should reflect the total number of sets capable of displaying ATV services, including HDTV, and also the total number of households equipped with such sets.

<sup>50</sup> See, e.g., id.

consumers across the country will acquire TV sets incorporating the new ATV technology at different rates, just as they have other electronic devices. It therefore would be sound policy to provide some means of accommodating the anticipated differences, particularly in light of the potential for otherwise forcing some small-market broadcasters off the air and thus risking a loss of service to the smaller communities they serve.

**6. The Complex Questions Raised By Mandatory Carriage In A Digital Environment Warrant Caution But Not Delay In FCC Implementation of ATV**

The record now before the Commission presents a vast array of opinions regarding mandatory carriage requirements in a digital environment.<sup>51</sup> Because of its broad-based business interests, Viacom brings some fundamental concerns to the discussion. In resolving the difficult issues posed by must-carry, Viacom urges the Commission to keep several public interest objectives -- matters of efficiency and equity alike -- uppermost in mind.

First, the complexity of mandatory carriage of ATV signals should not, and need not, delay the prompt implementation of ATV. In fashioning the must-carry law,

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<sup>51</sup> Compare, e.g., APTS/PBS Comments at 30-34; MSTV Comments at 31-35; EIA & ATV Committee Comments at 8-13 with CATA Comments at 3-8; Comments of Intermedia Partners, MM Docket No. 87-268, at 3-7 (filed Nov. 20, 1995) ("Intermedia Partners Comments"); Comments of the National Cable Television Association, MM Docket No. 87-268, at 4-8 (filed Nov. 20, 1995) ("NCTA Comments"); General Instrument Comments at 18-20.

Congress recognized that the carriage requirements would require further thought and readjustment once the Commission prescribes modifications of the broadcast standards to authorize advanced television.<sup>52</sup> Thus, nothing in the Communications Act or in the FCC's current rules would warrant slowing the initiation of ATV service until all mandatory carriage questions are fully resolved.<sup>53</sup>

Second, any future expansion of existing carriage obligations should not fundamentally alter the balance of interests now offered by mandatory carriage in the analog environment.<sup>54</sup> Viacom generally agrees with the Grand Alliance that any revised must-carry rules should provide for the rapid availability of HDTV broadcasts over cable systems without placing undue burdens on cable operators.<sup>55</sup> In particular, adopting must-carry rules to accommodate ATV should not undermine the cable operator's ability to carry existing cable program services or to add new cable services.

Viacom also is concerned about how a cable operator's statutory discretion to choose among eligible local broadcasters for carriage may operate in a digital

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<sup>52</sup> Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 534(b)(4)(B) (1994).

<sup>53</sup> This remains so even if the Commission finds it appropriate -- as it might well -- to issue a Further Notice of Proposed Rulemaking regarding these mandatory carriage issues.

<sup>54</sup> On a related note, Viacom joins the A. C. Nielsen Company in urging the Commission not to alter the current requirement for carriage of Nielsen's "Source Identification" ("SID") codes, which serves a key function in supporting the nation's free television system. Comments of A.C. Nielson Company, MM Docket 87-268, at 14-15 (filed Nov. 20, 1995) ("Nielson Comments").

<sup>55</sup> HDTV Grand Alliance Comments at 18.

environment. Under current law, if there are a greater number of local broadcasters eligible for carriage than the statute requires a particular operator to accommodate, the operator may exercise its discretion in picking and choosing which broadcast signals will be carried.<sup>56</sup> Viacom believes that revision of must-carry rules for ATV should not result in carriage of one broadcaster's multiplexed SDTV program services, for example, at the expense of dropping another local broadcaster altogether.

**B. Relying On Contiguous Blocks Of Spectrum Would Offer The FCC An Efficient Implementation Plan For ATV Broadcasting**

In determining where ATV allotments will be made within the spectrum allocated to television broadcasting, the FCC faces two interdependent decisions. The Commission must choose at what frequencies ATV broadcasting will be permitted following the transition. The agency also must decide whether ATV allotments during the transition period will be spread throughout the current television allocations or whether they will be limited to a portion of today's bands. As explained below, Viacom submits that the most practical solution is premised on the availability of UHF frequencies to accommodate ATV broadcasting in contiguous blocks of spectrum.

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<sup>56</sup> Cable Consumer Protection and Competition Act of 1992, § 534(b)(2) (1994).



**1. A UHF Allocation Plan Would Accommodate A Contiguous ATV Spectrum Block After The Transition To ATV**

Viacom joins others in urging that ATV broadcasting be limited to a contiguous band of channels after the transition to ATV is complete and the television broadcasting spectrum "re-packed" closely together on a narrower section of the current broadcast band.<sup>57</sup> As the FCC is well aware, only the UHF allocation offers such a spectrum block.

This contiguous approach holds several advantages for equipment design. Consumer receivers, for example, would need to tune over only a limited range and thus should be less complex and expensive than they would be otherwise. Equipment for broadcasters could be expected to be less expensive as well, as devices would be manufactured only for one frequency range. In addition, limiting ATV channels to one contiguous band also would provide clear benefits for spectrum planning because the potential for interference to and from adjacent radio services would be limited to the two ends of the contiguous broadcasting allocation. Finally, as other commenters have pointed out,<sup>58</sup> the contiguous band of frequencies vacated by broadcasting -- that is,

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<sup>57</sup> See, e.g., Golden Orange Broadcasting Comments at 3. Repacking will involve shifting channel assignments in the broadcasting allocations so that vacant gaps between assignments are reduced and, thus, the range of spectrum needed to accommodate all assignments is minimized.

<sup>58</sup> HDTV Grand Alliance Comments at 11-13; General Instrument Comments at 15; Thomson Comments at 7; PCIA Comments at 10.

the remaining spectrum not used for ATV following the transition -- could bring significantly more auction revenue than would an auction of small sub-bands that vary from market to market.

Only the UHF television allocation is broad enough to support a contiguous band of post-transition ATV spectrum. The VHF bands simply do not contain enough spectrum to hold all of the ATV allotments after (and, of course, during) the transition. In fact, only a portion of the UHF band would be needed to accommodate all broadcasters. Fortunately, broadcasters tend to find that the lower UHF spectrum is more valuable than the upper UHF because of reduced electric power requirements and expense, while parties in the mobile communications industry have indicated that the upper UHF spectrum is more valuable for mobile services.<sup>59</sup> Thus, it appears that broadcasters' requirements can be harmonized with the needs of new services that may be authorized in the newly vacated spectrum.

## **2. Spectrum Allocations During The Transition To ATV Should Minimize The Need For Multiple Channel Assignment Changes**

"Repacking" ATV channels closely together on the broadcast band will require some licensees to change their stations' channel assignment at the end of the transition period. Broadcasters and consumers will benefit if the number and extent of these

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<sup>59</sup> See Golden Orange Broadcasting Comments at 3; Motorola Comments at 8 (indicating that the recovery of upper UHF spectrum after the transition might be favored by both broadcasters and mobile wireless users).

changes are minimized. It would be particularly expensive for a broadcaster to switch from a transitional VHF ATV assignment to a permanent UHF ATV assignment because expensive transmitters, transmission lines, and antennas designed to work at VHF frequencies would have to be replaced to move to UHF. A channel switch within the UHF band, on the other hand, would not require such extensive equipment replacements. Accordingly, and because (as noted above) only the UHF band could offer the contiguous broadcasting allocation following the transition, Viacom supports an all-UHF transition plan. Under this scenario, all ATV broadcasting would take place in the UHF band throughout the transition, and the hardship of making a post-transition move from VHF to UHF would be eliminated.

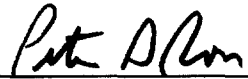
## **CONCLUSION**

Viacom respectfully urges the Commission to adopt the foregoing proposals to allow broadcasters to effectively enter and participate in a digital environment, while ensuring that consumers can exercise meaningful choices among the growing array of digital program providers. To this end, the Commission should take the limited steps described above to move forward with plans for implementing ATV, including HDTV, based on the Grand Alliance Standard. In particular, the Commission should recognize the potential for technological roadblocks in the transition to a digital environment and

ensure that ATV technology allows consumers ready access to all digital television programming sources.

Respectfully submitted,

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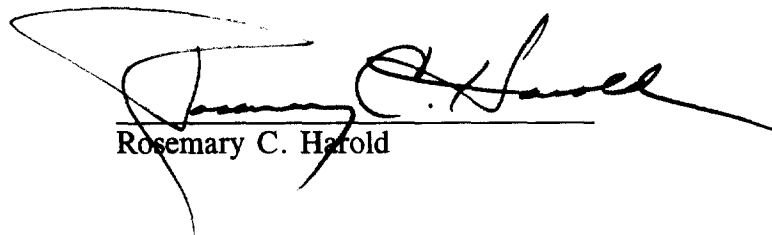
*Its Counsel*

January 22, 1996

CERTIFICATE OF SERVICE

I, Rosemary C. Harold, certify that the original and four copies of the foregoing  
"REPLY COMMENTS OF VIACOM INC." were served via hand-delivery on this  
22nd day of January, 1996, to the following:

William F. Caton  
Secretary  
Federal Communications Commission  
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Rosemary C. Harold